

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JOSEPH N. MAINIERI AND
JOHN A. IAROLI,

Plaintiff,

v.

THE BOARD OF TRUSTEES LOCAL
825 PENSION FUND, and
INTERNATIONAL UNION OF
OPERATING ENGINEERS LOCAL
825 PLAN,

Defendant.

Case No. 07-1133 (PGS)

**MEMORANDUM AND
ORDER**

This is a motion for modification of Magistrate Judge Salas' Scheduling Order dated January 7, 2009 limiting plaintiff's counsel to deposing only three persons during discovery. Although the Order appears final, it is our practice to be flexible with each litigant's needs during discovery. I am certain that Judge Salas would consider a bonafide request for more depositions where they are relevant and based upon a good cause. Fed. R. Civ. P. 26. Since the present appeal does not certify same, additional requests should be directed to Judge Salas with the appropriate reasons.

Under the governing statute, 28 U.S.C. § 636(b)(1)(A) a magistrate judge is authorized "to hear and determine any [non-dispositive] pretrial matter pending before the court." Further, "[a] judge of the court may reconsider any pretrial matter . . . where it has been shown that the

magistrate judge's order is clearly erroneous or contrary to law." Id. There is nothing which shows any such error. Appeal is dismissed without prejudice.

IT IS on this 11th May, 2009

ORDERED that plaintiffs' appeal is denied.

A handwritten signature in cursive script, appearing to read "Peter G. Sheridan", is written above a horizontal line.

PETER G. SHERIDAN, U.S.D.J.